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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,323	10/29/2003	Mark H. Eskridge	H0005287	7573
128	7590	08/02/2004	EXAMINER	
HONEYWELL INTERNATIONAL INC.			KWOK, HELEN C	
101 COLUMBIA ROAD			ART UNIT	
P O BOX 2245			PAPER NUMBER	
MORRISTOWN, NJ 07962-2245			2856	

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/696,323	<b>Applicant(s)</b> ESKRIDGE, MARK H.	
	<b>Examiner</b> Helen C. Kwok	<b>Art Unit</b> 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6-12,14 and 18-22 is/are rejected.
- 7) ☒ Claim(s) 2-5,13 and 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/2/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 8-9, 11 and 13-18 are objected to because of the following informalities.

Appropriate correction is required.

In claim 8, line 1, the word – the – should be inserted before the word “first”.

In claim 9, line 1, the word – the – should be inserted before the word “first”.

In claim 11, line 1, the phrase “of the each” should be changed to – of each --.

In claim 13, line 18, the word – electrode – should be inserted after the word “projected” to provide proper antecedent basis.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6-12, 14 and 18-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, line 1, the phrase “the torsional flexural” is vague. Is this referring to the first and second torsional flexures in claim 2 or the pair of torsional flexures in claim 3? Please clarify.

In claim 7, lines 8-9, the phrase "the proof mass electrodes" is vague. Is this referring to? Is this referring to the first proof mass electrodes or the second proof mass electrodes or both first and second proof mass electrodes. Please clarify.

In claim 14, line 1, the phrase "each of the torsional flexures" is vague. How can there be an "each" if one decides to have only one flexure since in claim 13, line 8, one can decide if there is one or more flexures? Please clarify.

In claim 15, line 1, the phrase "each of the torsional flexures" is vague. How can there be an "each" if one decides to have only one flexure since in claim 13, line 8, one can decide if there is one or more flexures? Please clarify.

In claim 18, line 2, the phrase "the torsional flexures" lacks antecedent basis if one chooses to have only one flexure. Please correct.

In claim 19, line 17, the phrase "the in-line flexures" lacks antecedent basis.

In claim 20, line 4, the phrase "the capacitor plates" is vague. Is this referring to the capacitor plates claimed in line 7 or line 11? Please clarify.

In claim 21, line 3, the phrase "the capacitor plates" is vague. Is this referring to the capacitor plates claimed in line 7 or line 11? Please clarify.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,257,059 (Weinberg et al.).

Weinberg et al. discloses a MEMS apparatus comprising, as illustrated in Figures 1-2, a frame; a proof mass for in-plane motion having first and second pluralities of spaced apart capacitor plates; third and fourth pluralities of spaced apart capacitor plates intermeshed respectively with the first and second pluralities of capacitor plates. (See, column 1, line 53 to column 2, line 34; column 2, line 66 to column 4, line 12).

#### ***Allowable Subject Matter***

6. Claims 2-5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

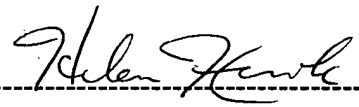
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The references cited are related to device dealing with out-of-the plane compensation.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen C. Kwok whose telephone number is (571) 272-2197. The examiner can normally be reached on 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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Helen C. Kwok  
Art Unit 2856

hck  
July 29, 2004